

RESOLUTION NO. 86-22

RESOLUTION APPROVING RENEWAL OF GOLF DRIVING RANGE LEASE

RESOLVED, that the City Council of the City of Lodi does hereby approve the renewal of the Golf Driving Range Lease dated February 5, 1986, a copy of which is attached hereto, marked Exhibit "A" and thereby made a part hereof.

BE IT FURTHER RESOLVED, that the City Council of the City of Lodi does hereby authorize the Mayor and City Clerk to execute the subject agreement on behalf of the City.

Dated: February 5, 1986

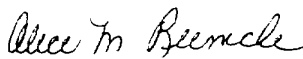
I hereby certify that Resolution No. 86-22 was passed and adopted by the City Council of the City of Lodi in a Regular Meeting held February 5, 1986 by the following vote:

Ayes: Council Members - Olson, Pinkerton, Reid, Snider,
and Hinchman (Mayor)

Noes: Council Members - None

Absent: Council Members - None

Abstain: Council Members - None


ALICE M. REIMCHE
City Clerk

A G R E E M E N T

THIS AGREEMENT made and entered into as of the 5th day of February, 1986, by and between the CITY OF LODI, a municipal corporation, hereinafter called First Party, and BOB GASAWAY, hereinafter called Second Party.

W I T N E S S E T H:

First Party does hereby grant to Second Party the exclusive right to operate the golf driving range located at 531 East Lockeford Street, Lodi, California, for a term commencing February 5, 1986, and terminating at midnight on June 30, 1987, on the following terms and conditions. Second Party will have an option to renew for a period of two (2) years upon expiration of this Agreement, at a negotiated monthly rental rate.

1) As consideration for this Agreement, Second Party agrees to pay First Party a monthly rental of \$150.00 per month, payable monthly in advance. In addition thereto, Second Party covenants and agrees to do the following:

a) Pay to First Party 10% of the gross revenue received for the rental of balls.

b) Maintain in full force during the term hereof a policy of public liability insurance under which Second Party is named as insured, and containing an Additional Named Insured Endorsement naming First Party as an additional insured, and under which the insurer agrees to indemnify and hold Second Party and First Party harmless

from, and against all costs, expenses, and liability arising out of, or based upon, any and all property damage, or damages for personal injuries, including death, sustained in accidents occurring in or about the demised premises; where such accident, damage, or injury, including death, results or is claimed to have resulted, from any act or omission on the part of Second Party, or Second Party's agents or employees. The minimum limits of such insurance shall be \$500,000/\$1,000,000. In addition to the Additional Named Insured Endorsement on Second Party's policy of insurance, said insurance policy shall be endorsed to include the following language:

"Such insurance as is afforded by the endorsement for the Additional Insureds shall apply as primary insurance. Any other insurance maintained by the City of Lodi or its officers and employees shall be excess only and not contributing with the coinsurance afforded by this endorsement."

A duplicate or certificate of said public liability and property damage insurance containing the above-stated required endorsements shall be delivered to First Party within ten (10) days after the issuance and each renewal of said policy. This paragraph and all other provisions of this Agreement, shall apply and be construed as applying to any subtenant of Second Party.

c) Not allow liquor or beer to be sold or consumed on the premises.

d) Provide and furnish, free of charge, to patrons, necessary golf clubs.

e) Keep said range open to the public six days each week and at such hours on said days as shall be determined by the Recreation Director of the City of Lodi.

f) Keep said premises in a clean and neat condition at all times and to properly and at seasonable times water the grass area of said driving range.

2) First Party covenants and agrees to do the following:

a) Cut grass at driving range.

b) Furnish utilities, install, and replace all necessary light bulbs.

3) Second Party does hereby acknowledge that all improvements and structures located on said premises are the property of First Party.

4) Second Party does hereby acknowledge that he has read the Master Lease entered into July 24, 1984 and terminating June 30, 1987, attached hereto as Exhibit "A" and incorporated herein by reference, wherein Lodi Grape Festival and National Wine Show, Inc. is referred to as Lessor and First Party as Lessee, and which lease covers the property hereinabove referred to. Second Party does hereby agree to be bound by the terms of said Master Lease insofar as said terms affect his operation and use of said property by Second Party.

5) In the event that Second Party fails to comply with any of the foregoing covenants and/or conditions, First Party shall then have the right to terminate and cancel this Agreement, it being understood and agreed that First Party shall be the sole judge as to whether the terms of this Agreement are being met.

6) No assignment or sub-lease to another party by Second Party shall be permitted without the express prior written consent of First Party.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands the day and year first hereinabove written.

CITY OF LODI, a municipal corporation

By _____
DAVID M. HINCHMAN, Mayor
First Party

BOB GASAWAY
Second Party

ATTEST:

By _____
City Clerk

Approved:

City Attorney

L E A S E

THIS LEASE, made and entered into this JUL 24 1984 day of _____, 1984, and between LODI GRAPE FESTIVAL & NATIONAL WINE SHOW, a non-profit corporation, hereinafter called LESSOR, and the CITY OF LODI, a municipal corporation of the State of California, hereinafter called LESSEE:

WITNESSETH THAT:

1. LESSOR hereby leases unto LESSEE that certain real property situate in the City of Lodi, County of San Joaquin, State of California, more particularly described as follows; (Property description subject to revision for clarification purposes)

The East 525 feet of the following described parcel; Commencing at the Southeast corner of the Northeast $\frac{1}{4}$ of Section 1, Township 3 North Range 6 East, along the East line of Section 1 North 660 feet; thence N.89 degrees 41' 30" W., 1320 feet; thence 749.1 feet; thence N. 86 degrees 26' E., 1322.6 feet to the point of beginning and containing 21.35 acres of land.

2. It is understood that said property shall be used by LESSEE only for the purpose of conducting a golf driving range thereon along with such other customary auxiliary services as are generally provided at golf driving ranges. LESSOR reserves the right to approve or disapprove any SUB-LESSEE.

3. This lease shall commence as of July 1, 1984, and terminate on the 30th day of June, 1987.

4. It is understood that LESSEE will sublet said premises to an individual or individuals for the purpose of operating said golf driving range, and that as a part of said rental, LESSEE shall be entitled to a percentage of the receipts from the use of golf balls. As rent for this lease, it is understood and agreed that LESSEE shall pay to LESSOR 50 per cent of all of the revenue received by LESSEE from the operator of the range for the rental of the golf balls. LESSEE shall pay said rent to LESSOR monthly or immediately after receiving receipts from Sub-LESSEE. It is expressly understood that no other sub-letting of the property by the LESSEE or its sub-LESSEE shall be permitted.

5. It is understood and agreed that all surface improvements on the demised premises, including buildings, poles and lights, are the property of LESSEE and may be removed by LESSEE at the termination of this lease or sooner, provided that the LESSEE is not in default in any of the terms and provisions hereof.

EXHIBIT "A"

6. It is understood and agreed that neither the LESSEE nor Sub-LESSEE will attach any permanent buildings or fixtures to the grounds without first obtaining written permission of the LESSOR.

7. It is understood and agreed that neither LESSEE nor sub-LESSEE of said Golf Driving Range shall be entitled to use or occupy said land during the annual Grape Festival, i.e. the three days immediately preceding the opening day of Festival and the two days following Festival, and that neither LESSEE nor Sub-LESSEE is to water the lawn area for at least three days prior to the 1st day of Festival. Watering of the lawn area will not be reinstated until after the Festival and said Golf Range property is returned to Sub-LESSEE as it was received. The area commonly known as the putting green may be watered during the time of the Festival.

8. It is understood and agreed that, in the event LESSOR rents the Festival grounds for major events requiring use of the Golf Range property, LESSEE and Sub-LESSEE will suspend operation of the Golf Driving Range and will permit LESSOR full use of the lawn area for use as may benefit LESSOR. LESSOR is to return lawn area to LESSEE in useable condition. Neither LESSEE or sub-LESSEE shall water the lawn for at least three days prior to the 1st day of each event. For the privilege of preemption, LESSOR agrees to reimburse sub-LESSEE at the rate of One Hundred (\$100.00) Dollars per day of actual use by LESSOR, it being understood this provision shall not apply to the annual Grape Festival period, week preceding and two days following. In no event shall LESSOR preempt LESSEE or Sub-LESSEE more than ten (10) times per year, exclusive of the annual Grape Festival period as identified in paragraph 7.

9. It is understood and agreed that the LESSOR may cancel this lease upon giving the LESSEE twelve (12) months' written notice prior thereof. It is understood that the same conditions would prevail should LESSEE want to terminate.

10. If for any reason the LESSEE shall terminate its sub-lease with the Golf Range operator on record at time of this agreement, it is understood that no new sub-lease will extend beyond the expiration time of this document.

11. LESSEE covenants and agrees to properly care for, water and mow the present lawn and turf located on the demised property.

12. LESSEE does hereby agree to indemnify, defend and save LESSOR free and harmless from any and all claims for loss, damage, injury or liability to persons or property that may arise during the time that LESSEE or its Sub-LESSEE is using said leased premises. LESSEE agrees, at all times during the continuance of this lease, to maintain public liability and property damage insurance in amounts satisfactory to LESSOR, covering its use, occupancy, and operation of said premises. Such policy or policies shall carry a specific endorsement providing that the LESSORS, its officers and employees, the County of San Joaquin, State of California are named as additional insureds and that such liability policy or policies are primary insurance as to any similar insurance carried by the LESSOR. LESSEE shall furnish LESSOR with satisfactory proof of the carriage of insurance required by the LESSOR, and there shall be a specific contractual liability assumed by LESSEE pursuant to the lease. Any policy of insurance required of LESSEE under this lease shall also contain an endorsement providing that at least ten (10) days' notice must be given in writing to LESSOR of any pending change in the limits of liability or of any cancellation or modification of the policy or policies.

13. LESSEE shall require any Sub-LESSEE to also maintain insurance policies as provided for herein and to provide proof of insurance and all endorsements, as provided herein, to LESSOR.

14. In the event LESSEE is self-insured, LESSEE shall provide a certificate of self-insurance in a form satisfactory to LESSOR.

IN WITNESS WHEREOF, the parties have set their hands
as of the day and year first hereinabove written.

LESSOR

LODI GRAPE FESTIVAL AND NATIONAL
WINE SHOW, a non-profit corporation

By William J. Beckwith
President

By James H. Brown
General Manager

(SEAL)

LESSEE

CITY OF LODI, a municipal corporation
of the State of California

By John R. Smider
Mayor

ATTEST:

Mary M. Bunch
City Clerk